

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of  
BOURQUE et al.

Serial No. 10/812,057

Filed: March 30, 2004



Atty. Ref.: 4446-17

TC/A.U.: 3727

Examiner: Sue A. Weaver

Confirmation No.: 1297

For: CONTAINER WITH INTEGRATED VACUUM PANEL, LOGO  
AND/OR RECESSED GRIP PORTION

\* \* \* \* \*

June 10, 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INFORMATION DISCLOSURE STATEMENT**

Listed on accompanying Form PTO-1449 is information that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith. At least one of the boxes below applies to the present application:

1.  This Information Disclosure Statement is being filed within three months of the U.S. filing date OR before the mailing date of a first Office Action on the merits. No statement under 37 C.F.R. § 1.97(e) or fee is required.

a.  Contingent Request to Treat Under 37 C.F.R. § 1.97(c)

In the event a first Office Action has been mailed prior to filing of the present Information Disclosure Statement and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat the present paper as a submission under 37 C.F.R. § 1.97(c) and charge the

06/13/2005 SDENR0B1 00000050 10812057  
04 FC:1806  
180.00 0P

undersigned's Deposit Account No. 14-1140 for the fee required by 37 C.F.R. § 1.17(p). The present paper is submitted in duplicate for this purpose.

b.  Contingent Request to Treat Under 37 C.F.R. § 1.97(e)(1)

In the event a first Office Action has been mailed prior to the filing of the present Information Disclosure Statement, and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat the present paper as a submission under 37 C.F.R. § 1.97(e)(1) in that the undersigned hereby states that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

b.1.  Patent Term Adjustment

I hereby certify that each item of information was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in Section 1.56(c) more than 30 days prior to the filing of the Information Disclosure Statement. 37 C.F.R. § 1.704(d).

c.  Contingent Request to Treat Under 37 C.F.R. § 1.97(e)(2)

In the event a first Office Action has been mailed prior to the filing of the present Information Disclosure Statement, and the Office Action was mailed more than three months since the filing of the application (for regular applications not including CPAs or RCEs), the Office is requested to treat the present paper as a submission under 37 C.F.R. § 1.97(e)(2) in that the undersigned hereby states that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my

knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

2.  This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.

a.  I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1). Contingent Request Under 37 C.F.R. § 1.97(d). In the event a Notice of Allowance or a Final Rejection has been mailed prior to filing this Information Disclosure Statement, the Office is authorized to treat this as a submission under 37 C.F.R. 1.97(d) and charge the undersigned's Deposit Account No. 14-1140 for the fee required by 37 C.F.R. § 1.17(p). The present paper is submitted in duplicate for this purpose.

a.1.  Patent Term Adjustment

I hereby certify that each item of information was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in Section 1.56(c) more than 30 days prior to the filing of the Information Disclosure Statement. 37 C.F.R. §1.704(d).

b.  I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this

Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

c.  Attached is our check in the amount of \$180.00 in payment of the fee under 37 C.F.R. § 1.17(p).

3.  This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but before payment of the Issue Fee 37 C.F.R. § 1.97(d). It is hereby requested that the Information Disclosure Statement be considered. Attached is our check in the amount of \$      in payment of the fee under 37 C.F.R. § 1.17(i).

a.  I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1).

a.1.  Patent Term Adjustment

I hereby certify that each item of information was cited in a communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in Section 1.56(c) more than 30 days prior to the filing of the Information Disclosure Statement. 37 C.F.R. §1.704(d).

b.  I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).

4.  Relevance of the non-English language document(s) is discussed in the present specification.

5.  The document(s) was/were cited in a corresponding foreign application. An English language version of the foreign search report or official action is attached for the Examiner's information. See MPEP § 609.

a.  U.S. Patent No. is indicated in the foreign search report or Official Action as being in the same patent family and/or the English-language equivalent of listed on the attached foreign search report.

6.  A concise explanation of the relevance of the non-English language document(s) appears below:

7.  Copies of the documents were cited by or submitted to the Office in Application No. , filed , which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

8.  The publication date (e.g., month or year) of at least one of the listed documents is not available. For each document in this category, the Office is requested to assume that the year of publication of each listed document is earlier than the effective U.S. filing date and/or any foreign priority date.

9.  The publication date of at least one document is listed on the attached PTO-1449 based on information presently available to the undersigned. However, each listed publication date should not be construed as an admission that the information was actually published on the date indicated, and the right to challenge each listed publication date is expressly reserved by Applicant(s).

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 14-1140 referencing docket number 4446-17.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
Paul T. Bowen  
Reg. No. 38,009

PTB:jck  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100

## INFORMATION DISCLOSURE

CITATION

CITE

PATENT

TRADEMARK

OFFICE

JUN 10 2005

(Use several sheets if necessary)

ATTY./DOCKET NO.

4446-17

SERIAL NO.

Continuation of USSSN

10/387,535 10/8/2005

APPLICANT

BOURQUE et al.

FILING DATE

TC/A.U.

March 30, 2004

Unassigned

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
3 w	5,067,622	11/1991	GARVER et al.	—	—	
3 w	5,762,221	06/1998	TOBIAS et al.	—	—	
3 w	5,971,184	10/1999	KRISHNAKUMAR et al.	215	574	
3 w	D278,977	05/1985	FRANCHI et al.	—	—	
3 w	D214,550	07/1969	PLUMMER	—	—	
3 w	D308,482	06/1990	WILD	—	—	
3 w	4,749,092	06/1988	SUGIURA et al.	—	—	
3 w	4,805,788	02/1989	AKIHO	—	—	
3 w	4,863,046	09/1989	COLLETTE et al.	—	—	
3 w	4,877,141	10/1989	HAYASHI et al.	—	—	
3 w	5,054,632	10/1991	ALBERGHINI et al.	—	—	
3 w	5,064,081	11/1991	HAYASHI et al.	—	—	
3 w	5,092,475	03/1992	KRISHNAKUMAR et al.	—	—	
3 w	5,141,120	08/1992	BROWN et al.	—	—	
3 w	5,141,121	08/1992	BROWN et al.	—	—	
3 w	5,165,557	11/1992	OTA et al.	—	—	
3 w	5,178,289	01/1993	KRISHNAKUMAR et al.	—	—	
3 w	5,238,129	08/1993	OTA	—	—	

## FOREIGN PATENT DOCUMENTS

	DOCUMENT	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES	NO
	2585264	07/1994	JAPAN	—	—	—	—
3 w	8-230856	09/1996	JAPAN	—	—	—	—
	2839012	10/1998	JAPAN	—	—	—	—
	0 356 829	03/1990	EUROPE	—	—	—	—
	02/32768 A1	04/2002	PCT	—	—	—	—

## OTHER DOCUMENTS (including Author, Title, Date, Pertinent pages, etc.)

	European Search Report, December 20, 2002, 10 pages
3 w	Partial European Search Report, September 23, 2002, 5 pages
3 w	Slide 3 of Presentation to Ocean Spray, "1994 Launched first 'Pinch Grip' Bottle"
3 w	Slide 4 of Presentation to Ocean Spray, "1998 Launched first U.S. Rectangular Hot-fill Juice Bottle"
3 w	Slide 5 of Presentation to Ocean Spray, "1999 Launched first 'Round Grippable' Bottle"
3 w	Slide 6 of Presentation to Ocean Spray, "2000 Launched Improved 'Pinch Grip' Bottle"
3 w	Slide 11 of Presentation to Ocean Spray, "Selected Rectangular Bottles on the World Market since 1990's"

\*Examiner

See W. earr

Date Considered

12/6/04

Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to application.

INFORMATION DISCLOSURE STATEMENT  
BY APPLICANT

Date: March 14, 2003

Page 1 of 2

U.S. PATENT DOCUMENTS

Examiner's Initials*	Document Number	Date MM/YYYY	Name (Family Name of First Inventor)	Class	Sub Class	Filing Date (if appropriate)
DN	AR 5,067,622	11/1991	GARVER et al.			
BN	BR 5,762,221	06/1998	TOBIAS et al.	215	381	
BN	CR 5,971,184	10/1999	KRISHNAKUMAR et al.	215	384	
BN	DR Des. 278,977	05/1985	FRANCHI et al.			
BN	ER Des. 214,550	07/1969	PLUMMER			
BN	FR Des. 308,482	06/1990	WILD			
DN	GR 4,749,092	06/1988	SUGIURA et al.			
BN	HR 4,805,788	02/1989	AKIHO			
BN	IR 4,863,046	09/1989	COLLETTE et al.	215	382	
BN	JR 4,877,141	10/1989	HAYASHI et al.			
DN	KR 5,054,632	10/1991	ALBERGHINI et al.			
BN	LR 5,064,081	11/1991	HAYASHI et al.			
BN	MR 5,092,475	03/1992	KRISHNAKUMAR et al.			
BN	NR 5,141,120	08/1992	BROWN et al.			

FOREIGN PATENT DOCUMENTS

	Document Number	Date MM/YYYY	Country	Inventor Name	English Abstract		Translation Readily Available	
					Enclosed	No	Enclose	No
BN	OR 2585264	07/1994	JAPAN				X	
BN	PR 8-230856	09/1996	JAPAN				X	
BN	QR 2839012	10/1998	JAPAN				X	
BN	RR 0 356 829	03/1990	EUROPE					
BN	SR 02/32768 A1	04/2002	WORLD PCT					
TR								
UR								
VR								
WR								
XR								

OTHER (Including in this order Author, Title, Periodical Name, Date, Pertinent Pages, etc.)

BN	YR	European Search Report, December 20, 2002, 10 pages
BN	ZR	Partial European Search Report, September 23, 2002, 5 pages
	AAR	
	BBR	
	CCR	

Examiner Sue A. Weaver

Date Considered: 3/13/03

\*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

INFORMATION DISCLOSURE CITATION		ATTY. DOCKET NO.	SERIAL NO.
		4446-17	Continuation of USSN 10/387,535
		APPLICANT	
		BOURQUE et al.	
(Use several sheets if necessary)			
		FILING DATE	TC/A.U.
		March 30, 2004	Unassigned

## U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	5,067,622	11/1991	GARVER et al.			
	5,762,221	06/1998	TOBIAS et al.			
	5,971,184	10/1999	KRISHNAKUMAR et al.			
	D278,977	05/1985	FRANCHI et al.			
	D214,550	07/1969	PLUMMER			
	D308,482	06/1990	WILD			
	4,749,092	06/1988	SUGIURA et al.			
	4,805,788	02/1989	AKIHO			
	4,863,046	09/1989	COLLETTE et al.			
	4,877,141	10/1989	HAYASHI et al.			
	5,054,632	10/1991	ALBERGHINI et al.			
	5,064,081	11/1991	HAYASHI et al.			
	5,092,475	03/1992	KRISHNAKUMAR et al.			
	5,141,120	08/1992	BROWN et al.			
	5,141,121	08/1992	BROWN et al.			
	5,165,557	11/1992	OTA et al.			
	5,178,289	01/1993	KRISHNAKUMAR et al.			
	5,238,129	08/1993	OTA			

## FOREIGN PATENT DOCUMENTS

DOCUMENT	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES	NO
2585264	07/1994	JAPAN				
8-230856	09/1996	JAPAN				
2839012	10/1998	JAPAN				
0 356 829	03/1990	EUROPE				
02/32768 A1	04/2002	PCT				

## OTHER DOCUMENTS (including Author, Title, Date, Pertinent pages, etc.)

European Search Report, December 20, 2002, 10 pages
Partial European Search Report, September 23, 2002, 5 pages
Slide 3 of Presentation to Ocean Spray, "1994 Launched first 'Pinch Grip' Bottle"
Slide 4 of Presentation to Ocean Spray, "1998 Launched first U.S. Rectangular Hot-fill Juice Bottle"
Slide 5 of Presentation to Ocean Spray, "1999 Launched first 'Round Grippable' Bottle"
Slide 6 of Presentation to Ocean Spray, "2000 Launched Improved 'Pinch Grip' Bottle"
Slide 11 of Presentation to Ocean Spray, "Selected Rectangular Bottles on the World Market since 1990's"

\*Examiner

Date Considered

INFORMATION DISCLOSURE CITATION		ATTY. DOCKET NO. 4446-17	SERIAL NO. 10/812,057				
APPLICANT BOURQUE et al.							
(Use several sheets if necessary)		FILING DATE March 30, 2004	TC/A.U. 3727				
JUN 10 2005							
U.S. PATENT DOCUMENTS							
EXAMINER		FILING DATE					
	DOCUMENT NUMBER	DATE	NAME				
	5,199,588	4/1993	HAYASHI				
	D451,032	11/2001	IIZUKA et al.				
	D451,033	11/2001	IIZUKA et al.				
	D459,234	6/2002	BOURQUE et al.				
	US-2005-0040132 A1	02/2005	SAITO et al.				
	D452,444	12/2001	IIZUKA et al.				
	D467,505	12/2002	IIZUKA et al.				
	D481,318	10/2003	IIZUKA et al.				
	6,575,320	06/2003	OTA et al.				
	D423,940	05/2000	CHIMETTO				
FOREIGN PATENT DOCUMENTS							
DOCUMENT		DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION YES	NO
OTHER DOCUMENTS (including Author, Title, Date, Pertinent pages, etc.)							
Pictures (10 pages) of "TREETOP" Apple Juice Bottle, and licensee's description of "TREETOP" Bottle presented during negotiation of license, 1997 (according to licensee)							
"Customer Concept Drawing" of Ocean Spray Bottle (10/22/98)							
"Customer Specification Drawing" of Ocean Spray Bottle (7/18/00)							
"Customer Product Drawing" of Veryfine Bottle (2/17/98)							
"32 oz. Custom Bell" (1/26/96).							

\*Examiner

### Date Considered

Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to application.



the pictured TREETOP® bottle has a top portion including a shoulder and a grip portion, and a bottom portion with a plurality of vacuum panels. The grip portion defines a logo portion (e.g., the leaf) which is an auxiliary vacuum panel that is recessed within the top portion of the container. The bottle is generally rectangular in cross-section. We understand that it was the subject of "mall intercept tests" done in the public, in 1997, without any obligation of confidentiality.